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FLETCHER YODER (TYCO INTERNATIONAL, LTD.)

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03/06/2006 TBESHAH2 00000076 10796578

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Michael G. Fletcher

(Depositor's name)

MD JA

(Signature)

March 1, 2006

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,578	03/08/2004	Clark R. Baker JR.	TYHC:0052/FLE (P0427R)	1111

TITLE OF INVENTION: PULSE OXIMETER WITH SEPARATE ENSEMBLE AVERAGING FOR OXYGEN SATURATION AND HEART RATE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$1700	03/01/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
TSAL, CAROL S W	2857	702-078000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Fletcher Yoder PC

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3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Nellcor Puritan Bennett Incorporated

Pleasanton, California

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☒ Issue Fee☒ Publication Fee (No small entity discount permitted)☐ Advance Order - # of Copies

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.☒ Payment by credit card. Form PTO-2038 is attached.

☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 06-1315/FLE (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

MD JA

Date

March 1, 2006

Typed or printed name

Michael G. Fletcher

Registration No.

32,777

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Clark R. Baker Jr.

Serial No.: 10/796,578

Filed: March 8, 2004

For: PULSE OXIMETER WITH SEPARATE
ENSEMBLE AVERAGING FOR
OXYGEN SATURATION AND HEART
RATE

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Group Art Unit: 2857

Examiner: Carol S. W. Tsai

Atty Docket: TYHC:0052/FLE
P0427R (009103-022700US)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

CERTIFICATE OF TRANSMISSION OR MAILING
37 C.F.R. 1.8

I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office in accordance with 37 C.F.R. 1.6(d) or is being deposited with the U.S. Postal Service as First Class Mail in an envelope with sufficient postage addressed to: Commissioner for Patents, Alexandria, VA 22313, on the date below:

March 1, 2006

Michael G. Fletcher

Sir:

TRANSMITTAL LETTER FOR SUBMISSION OF ISSUE FEE

In response to the Notice of Allowance and Fee(s) Due mailed December 1, 2005, please charge the requisite fee of \$1,700.00, and any additional fees which may be required to the PTO-2038 enclosed. If the PTO-2038 is missing or insufficient, then the Commissioner is authorized to charge Deposit Account No. 06-1315; Order No. TYHC:0052/FLE (009103-022700US).

Respectfully submitted,

Date: March 1, 2005

Michael G. Fletcher
Reg. No. 32,777
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Houston, TX 77269-2289
(281) 970-4545



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Clark R. Baker Jr.

Serial No.: 10/796,578

Filed: March 8, 2004

For: PULSE OXIMETER WITH SEPARATE
ENSEMBLE AVERAGING FOR
OXYGEN SATURATION AND HEART
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March 1, 2006

Date

Michael G. Fletcher

Sir:


COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

In the Notice of Allowance and Fee(s) Due mailed on December 1, 2005, the Examiner provided a Statement of Reasons for Allowance. In the Examiner's Statement, the Examiner appeared to rely upon certain combinations of references that were not set forth in previous Official Actions. Therefore, Applicant objects to the Examiner's Statement to the extent that it purports to "clarify the record" based upon what essential amounts to new grounds of rejection. Furthermore, it should be noted that in the Response and Amendment mailed on October 10, 2005, Applicant placed the present application in condition for allowance without prejudice. Indeed, Applicant specifically stated that Applicant disagreed with the Examiner's rejections and intended to address the rejection in a subsequently filed continuation application. Therefore, it is

reiterated that Applicant does not agree with the Examiner's rejections nor with the Examiner's characterization of the references made in the Examiner's Statement of Reasons for Allowance.

Respectfully submitted,

Date: March 1, 2006



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